

# **Notice of Allowability**

Application No.

10/083,995

Examiner

Chester T. Barry

Applicant(s)

POLLOCK, DAVID C.

Art Unit

1724

-- **Th MAILING DATE of this communication appears on the cov r she t with th correspond nc address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 2/25/02.
2. ☒ The allowed claim(s) is/are 1-41.
3. ☒ The drawings filed on 25 February 2002 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- \* Certified copies not received: \_\_\_\_\_.
5. ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
  - (a) ☐ The translation of the foreign language provisional application has been received.
6. ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application. **THIS THREE-MONTH PERIOD IS NOT EXTENDABLE**

7. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
8. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
  - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
    - 1) ☐ hereto or 2) ☐ to Paper No. \_\_\_\_\_.
  - (b) ☐ including changes required by the proposed drawing correction filed \_\_\_\_\_, which has been approved by the Examiner.
  - (c) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No. \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the margin according to 37 CFR 1.121(d).

9. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## **Attachment(s)**

- |  |   |
|--|---|
| 1 <input checked="" type="checkbox"/> Notice of References Cited (PTO-892).  | 5 <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)          |
| 2 <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 6 <input type="checkbox"/> Interview Summary (PTO-413), Paper No. _____.            |
| 3 <input checked="" type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No. <u>5/20/03</u> | 7 <input checked="" type="checkbox"/> Examiner's Amendment/Comment                  |
| 4 <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material                    | 8 <input checked="" type="checkbox"/> Examiner's Statement of Reasons for Allowance |
|  | 9 <input type="checkbox"/> Other  |

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703-306-5921 direct  
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**Restriction**

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 - 41, drawn to a deep shaft bioreactor apparatus, classified in class 210, subclass 188.
- II. Claims 42-58, 67-71, drawn to a waste water treatment process, classified in class 210, subclass 601+.
- III. Claims 59-66, drawn to a floatation separation process, classified in class 210, subclass 221.1.
- IV. Claims 72-74, directed to a method of fabricating a reaction vessel, classified in class 29, various subclasses.

The inventions are distinct, each from the other because of the following reasons:

Inventions IV and II are related as process of making and process of using the product of Invention I. The use as claimed can be practiced with a materially different product. The fabrication method is one of general applicability – it can be used to make materially different products. The floatation separation method can be used in a variety of processes, such as metals separation. It is not limited to use in a biological wastewater treatment process. For the foregoing reasons, restriction between these four groups is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

During a telephone conversation with Mr. Jeff King on 12/12/03 a provisional election was made without traverse to prosecute the invention of Group I, claims 1 - 41. Affirmation of this election must be made by applicant in replying to this Office action. Claims 42 – 74 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

**Allowed Claims**

Claims 1 – 41 are allowed.

The following is an examiner's statement of reasons for allowance:

The art of record fails to describe or suggest – in combination with the other elements of claims 1 and 32 - a degassing plate to direct flow from the first superior upflow channel laterally to effectuate degassing.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

**Examiner's Amendment**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be

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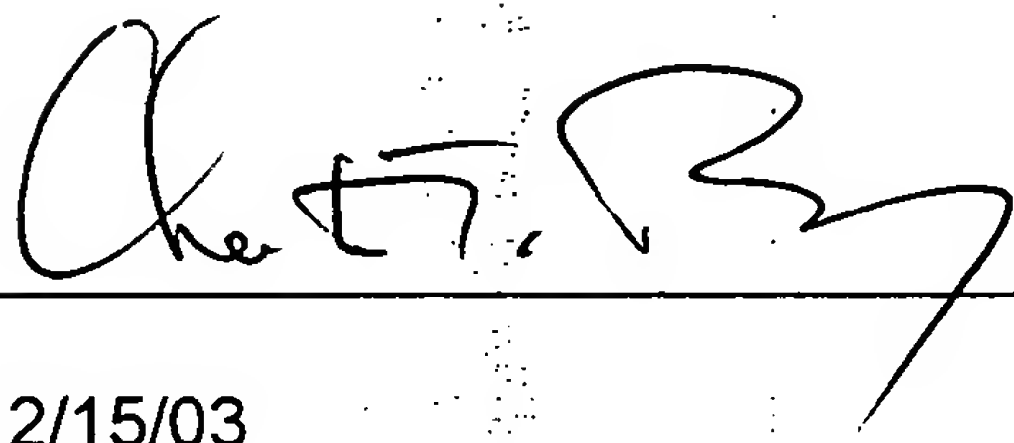
submitted no later than the payment of the issue fee.

The application has been amended as follows:

IN THE CLAIMS

Claims 42 – 74 were cancelled without prejudice as being directed to inventions non-elected without traverse.

Respectfully,

A handwritten signature in cursive script, appearing to read "Chestert T. Barry", is written over a horizontal line.

12/15/03

571-272-1152

**CHESTERT. BARRY  
PRIMARY EXAMINER**